

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR
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August 8, 2001

Franklin Willis
Small Business Diversity
and Labor Compliance Representative
Los Angeles County Metropolitan Transit Authority
1 Gateway Plaza
Los Angeles, CA 90012-2952

RE: Public Works Case No.2001-005
Trash/Debris Removal from Railroad Rights-of-Way and
Facilities, Blue and Green Lines
Los Angeles County Metropolitan Transportation Authority

Dear Mr. Willis:

This constitutes the determination of the Director of Industrial Relations regarding coverage of the above-referenced project under California's prevailing wage laws and is made pursuant to Title 8, California Code of Regulations, section 16001(a). Based on my review of the facts of this case and an analysis of the applicable law, it is my determination that the removal of trash and debris from railroad rights-of-way and facilities on the Blue and Green Lines of the Los Angeles County Metropolitan Transportation Authority ("MTA") is maintenance work that requires the payment of prevailing wages.

MTA has entered into a contract effective July 1, 2001 with Woods Maintenance Service, Inc. for the removal of trash and debris from MTA's Green Line and Blue Line light railroad rights-of-way and its facilities. The work includes, but is not limited to, removal of paper, refuse, dead vegetation, automobile parts, shopping carts, tires, bicycles, furniture, etc. The principal objectives of this work are safety and compliance with local law.¹

¹ See, e.g. Memorandum of Operations Committee (MTA), March 14, 2001, "Rationale": "This action will allow MTA-operated light rail lines to be kept free of trash and debris for safe train movements and to comply with local municipal codes and ordinances."

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Labor Code section 1771² states in relevant part: "Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages . . . shall be paid to all workers employed on public works. This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work."

The principal issue is whether the work that is the subject of the contract in this case constitutes maintenance, as that term is defined under the law.

Title 8, California Code of Regulations, section 16000, defines "maintenance," in relevant part, as:

(1) Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired.

The work consists of routine and recurring trash and debris removal, the purpose of which is to keep the light rail system safe and in a continually usable condition. Therefore, consistent with *Precedential Public Works Coverage Determination No. 99-028, County of San Diego Road Maintenance, June 30, 1999*, and the legal definition of maintenance, the work at issue here is maintenance for which prevailing wages must be paid.

The trash and debris removal is also a public work under section 1720.3, which was amended in 1999 to provide:

"For the limited purposes of Article 2 (commencing with Section 1770), "public works" also means the hauling of refuse from a public works site to an outside

² All subsequent statutory references are to the Labor Code unless otherwise indicated.

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disposal location, with respect to contracts involving any state agency, including the California State University and the University of California, or any political subdivision of the state."

The "Scope of Work" for the contract requires Woods Maintenance Service, Inc. to properly dispose of the trash and debris at contractor's own expense. Since the MTA is an agency of Los Angeles County, which is a political subdivision of the state, and the contract will be paid for wholly with public funds, section 1720.3 would require the payment of prevailing wages.

Your letter refers to an August 20, 1997 letter by former Division of Labor Statistics & Research ("DLSR") Chief Dorothy Vuksich opining that the work at issue is not a public work requiring the payment of prevailing wages. I appreciate your submitting a request to verify whether Ms. Vuksich's opinion constitutes a public works coverage determination upon which MTA can rely. Please note that pursuant to Government Code section 11425.60, only the designated precedential public works coverage decisions of the Director may be given force or effect in analyzing whether a particular project is a public works. Accordingly, as the advisory letter you rely on is neither a Director public works coverage determination nor a precedential decision, it may not be relied upon.

I hope this determination letter satisfactorily answers your inquiry.

Sincerely,



Stephen J. Smith
Director

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